

HOUSE BILL NO. 91

INTRODUCED BY G. GOLIE

BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT COORDINATING SCHOOL ELECTION DATES BY REQUIRING A PERSON SEEKING TO BECOME A WRITE-IN CANDIDATE FOR A TRUSTEE POSITION ON A SCHOOL BOARD TO FILE A DECLARATION OF INTENT AT LEAST ~~25~~ 26 DAYS BEFORE THE ELECTION; AMENDING SECTIONS 13-10-211, 13-10-302, 13-15-202, AND 20-3-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-10-211, MCA, is amended to read:

"13-10-211. Declaration of intent for write-in candidates. (1) Except as provided in subsection ~~(4)~~ (5), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. Except as provided in ~~subsection~~ subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 15th day before the election and must contain:

(a) (i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

(d) the title of the office sought;

- (e) the date of the election;
- (f) the date of the declaration; and
- (g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, ~~less than 15 days before the election~~ after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking:

- (a) dies;
- (b) withdraws from the election; or
- (c) is charged with a felony offense.

(3) A person seeking to become a write-in candidate for a trustee position on a school board shall file a declaration of intent no later than 5 p.m. on the 25th 26TH day before the election.

~~(3)~~(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

~~(4)~~(5) The requirements in subsection (1) do not apply to a write-in candidate seeking election to an office for which a candidate has not filed a declaration or petition for nomination or a declaration of intent.

~~(5)~~(6) A declaration of intent may be sent by facsimile transmission, if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state."

Section 2. Section 13-10-302, MCA, is amended to read:

"13-10-302. Write-in votes for previously nominated candidates. If an elector writes the name of an individual upon a primary party ballot when the individual's name appears as a candidate for the same office on another party ballot, the vote shall count for the individual only as a candidate of the party upon whose ballot the individual's name is written and the votes cast on the separate party ballots may not be added together. Except as provided in 13-10-211~~(4)~~(5), a write-in vote may be counted only if the vote identifies the individual by any of the designations filed pursuant to 13-10-211(1)(a)(i) through (1)(a)(iv)."

1

2 **Section 3.** Section 13-15-202, MCA, is amended to read:

3 **"13-15-202. Counting votes cast -- pollbook.** (1) (a) When the procedures required by 13-15-201
4 are completed, the election judges shall count and determine the votes cast for each individual, except as
5 provided in subsection (1)(b).

6 (b) The judges may not count or record write-in votes for candidates who have not filed a
7 declaration of intent as provided in 13-10-211, except for write-in votes cast:

8 (i) for an office for which a candidate has not filed a declaration or petition for nomination or a
9 declaration of intent; or

10 (ii) on a federal write-in absentee ballot as provided in 13-13-273.

11 (2) In counting, the ballots must be opened singly by one of the election judges and the contents
12 read aloud to the other judges.

13 (3) A ballot or part of a ballot is void and may not be counted if the elector's choice cannot be
14 determined. If part of a ballot is sufficiently plain to determine the elector's intention, the election judges
15 shall count that part. Except as provided in 13-10-211~~(4)~~(5), a write-in vote may be counted only if the
16 write-in vote identifies an individual by any of the designations filed pursuant to 13-10-211(1)(a).

17 (4) As the ballots are read, two judges shall write on a tally sheet the name of every individual
18 and the office voted for and keep tallies of the number of votes for each individual, except as provided in
19 subsection (1)(b).

20 (5) The tally sheets must be compared and their correctness ascertained, and the judges shall
21 immediately write in the pollbook:

22 (a) the names of all individuals who received votes;

23 (b) the offices for which they received votes;

24 (c) the total votes received by each individual as shown by the tally sheets.

25 (6) In making the count in precincts where voting machines are used, the votes cast by absentee
26 ballot must be added to the votes cast on the voting machines.

27 (7) A ballot or vote rejected by the election judges may not be included in the count."

28

29 **Section 4.** Section 20-3-313, MCA, is amended to read:

30 **"20-3-313. Election by acclamation -- notice.** (1) If the number of candidates filing for a position

1 or filing a declaration of intent to be a write-in candidate under 13-10-211 is equal to the number of
2 positions to be elected and there is no other reason for the election, the trustees may give notice that an
3 election will not be held. Notice must be given no later than ~~14~~ 25 days before the election.

4 (2) If an election is not held, the trustees shall declare elected by acclamation the candidate who
5 filed for the position or who filed a declaration of intent to be a write-in candidate and issue a certificate
6 of election to the candidate."

7

8 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

9

- END -